In the High Court of Punjab and Haryana at Chandigarh.

F.A.O.No. 1653 of 2005
Date of decision:18.5.2007

Ashok Patwal

Appellant

Vs.

Chanari Devi and others

Respondents

Coram: Hon'ble Mr. Justice A.N.Jindal

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Present: Mr.Gopal Mittal , Advocate,
for the petitioner-appellant.

Mr. Pritam Saini, Advocate,
for respondent No. 2

Mr. R.K.Bishamboo, Advocate,
for Insurance Company.

Mr. Rajnish Narula, Advocate,
for respondent No.3.

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A.N.Jindal, J.(Oral)

Ashok Patwal, owner of offending bus No. DL.1 PA 3169 has challenged the judgment dated 21.8.2003 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib, whereby deciding issue No. 3 in favour of the insurance company, observed that since respondent No. 1 was not having valid and legal driving licence at the time of accident, therefore, if the amount of award is to be paid by the insurance company-respondent No. 3, then the company will be at liberty to recover the compensation amount from the appellant if paid by the them to the claimants.

The main grouse of the appellant is that the learned Tribunal

mis-appreciated the evidence. The driving licence proved on record, Ex. P-1, was bearing No. 1931 of 1991, Varanasi in the name of Arun KumarVishkarma-respondent No. 1 (in the claim petition) and respondent No. 3 (in this appeal) but the insurance company proved the report Ex. R-1 given by the licencing authority, Vananasi, containing the verification that driving licence No. 19310 of 1991 U.P. was never issued by their office. On the basis of the said report, Ex. R-1, the Tribunal decided issue No. 3 in favour of the insurance company and against the respondents.

It was contended by the appellant that since the report has not been given with regard to the driving licence, Ex. P-1, therefore, the same could not be made basis for deciding the issue in favour of the insurance company and the insurance company could not be given liberty to to recover the amount of compensation from the appellant.

Having appreciated the contentions, I find some merit in the point raised by the appellant. The report Ex. R-1 relates to the driving licence bearing No. 19310 of 1991 U.P. Whereas the driving licence proved on the record before the Tribunal, was bearing No. 1931 of 1991 U.P.Varanasi and it was issued by the licencing authority, Varanasi on 9.12.1998 valid from 10.1.1997 to 9.1.2000.

Consequently, the Tribunal fell in error while accepting the report Ex. R-1. On going deep into the matter, if the said report related to the driving licence of the respondent-Arun Kumar, then some official of the licencing authority could be summoned to clarify that the report related to the Driving Licence Ex. P-1.

Consequently findings on issue No. 3 and the relief granted on

the basis of these findings to the insurance company deserves to be reversed.

In the wake of the aforesaid discussion, I hereby accept this appeal, set aside the impugned award in the aforesaid terms and remit the case back to the tribunal to decide the case a fresh after providing opportunity to both the parties to lead evidence with regard to the validity and genuineness of the driving licence and pass judgment a fresh.

The parties are directed to appear before the trial Court on 28.5.2007.

(A.N.JINDAL)
JUDGE

May 18, 2007
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